

REPUBLIC OF KENYA

COAST WATER WORKS DEVELOPMENT AGENCY



IMPROVEMENT OF DRINKING WATER AND SANITATION SYSTEMS IN MOMBASA MWACHE CKE 1103

**LOT 1 – CONSTRUCTION OF THE MWACHE TRUNK
MAIN (SECTION 1), SOUTH MAINLAND TRANSMISSION
MAIN AND DONGO KUNDU RESERVOIR**

BID No. CWWDA/AFD/PQ/W4/2022-2023

PREQUALIFICATION DOCUMENT

Employer:

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PREQUALIFICATION DOCUMENT

Procurement of

Improvement of Drinking Water and Sanitation Systems in Mombasa

Lot 1 – Construction of the Mwache Trunk Main (Section 1), South Mainland Transmission Main and Dongo Kundu Reservoir

IPC No: CWWDA/AFD/PQ/W4/2022-2023

Project: IMPROVEMENT OF DRINKING WATER AND SANITATION
SYSTEMS IN MOMBASA; MWACHE CKE 1103

Employer: COAST WATER WORKS DEVELOPMENT AGENCY

Country: REPUBLIC OF KENYA

Issued on: 4TH APRIL 2023

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PART 1 - Prequalification Procedures

Section I - Instructions to Applicants (ITA)

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A. General

- 1 Scope of Application**

1.1 In connection with the Invitation for Prequalification indicated in Section II, Prequalification Data Sheet (PDS), the Employer, as defined in the **PDS**, issues these Prequalification Documents ("Prequalification Documents") to prospective applicants ("Applicants") interested in submitting applications ("Applications") for prequalification to bid for the works described in Section VII - Scope of Works. In case the works are to be bid as individual contracts (i.e. the slice and package procedure), these are listed in the **PDS**. The International Procurement Competition ("IPC") number corresponding to this prequalification is also provided in the **PDS**.
- 2 Source of Funds**

2.1 The Employer indicated in the **PDS** has applied for or received financing (hereinafter called "funds") from *Agence Française de Développement* (hereinafter called "**AFD**") towards the project named in the **PDS**. The Employer intends to apply a portion of the funds to eligible payments under the contract(s) resulting from the bidding for which this prequalification is conducted.
- 3 Corrupt and Fraudulent Practices**

3.1 AFD requires compliance with its policy in regard to corrupt and fraudulent practices as set forth in Section VI - AFD Policy - Corrupt and Fraudulent Practices – Environmental and Social Responsibility.

3.2 In further pursuance of this policy, Applicants shall permit and shall cause its subcontractors and sub-consultants, to permit AFD to inspect all accounts, records and other documents relating to the submission of the Application, bid submission (in case prequalified), and contract performance (in the case of award), and to have them audited by auditors appointed by AFD.
- 4 Eligible Applicants**

4.1 An Applicant may be a firm that is a private entity, a state-owned entity -subject to ITA 4.3 - or a combination of such entities in the form of a joint venture ("JV") under an existing agreement or with the intent to enter into such an agreement supported by a letter of intent. In the case of a JV, all members shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms. The JV shall nominate an authorized representative who shall have the authority to conduct all business for and on behalf of any and all the members of the JV during the prequalification process, bidding (in the event the JV submits a bid) and during contract execution (in the event the JV is awarded the Contract). Unless specified in the **PDS**, there is no limit on the number of members in a JV.

4.2 A firm may apply for prequalification both individually, and as part of a joint venture, or as a subcontractor. If prequalified, it will not be permitted to bid for the same contract both as an individual firm and as a part of the joint venture. However, a firm may participate as a subcontractor in more than one bid, but only in that capacity. Bids submitted in violation of this procedure will be rejected.

4.3 AFD's eligibility criteria for prequalification are described in Section V – Eligibility Criteria.

4.4 Applicants shall not have a conflict of interest. Any Applicant found to have a conflict of interest shall be disqualified. An Applicant may be considered to have a conflict of interest for the purpose of this prequalification process, if the Applicant:

 - a) Directly or indirectly controls, is controlled by or is under common control with another Applicant; or

- b) Receives or has received any direct or indirect subsidy from another Applicant; or
 - c) Has the same legal representative as another Applicant; or
 - d) Has a relationship with another Applicant, directly or through common third parties, that puts it in a position to influence the application of another Applicant, or influence the decisions of the Employer regarding this prequalification process; or
 - e) Any of its affiliates participated as a consultant in the preparation of the design or technical specifications of the works that are the subject of the prequalification; or
 - f) Any of its affiliates has been hired (or is proposed to be hired) by the Employer as Engineer for the Contract implementation; or
 - g) Has a close business or family relationship with a professional staff of the Employer (or of the project implementing agency, or of a recipient of a part of the loan) who: (i) are directly or indirectly involved in the preparation of the prequalification documents or specifications of the contract, and/or the prequalification evaluation process; or (ii) would be involved in the implementation or supervision of such contract unless the conflict stemming from such relationship has been resolved in a manner acceptable to AFD throughout the procurement process and execution of the contract.
- 4.5 An Applicant shall not be under suspension from bidding by the Employer as the result of the execution of a Bid–Securing Declaration.
- 4.6 An Applicant shall provide such evidence of eligibility satisfactory to the Employer, as the Employer shall reasonably request.
- 5 Eligible Materials, Equipment, and Services**
- 5.1 The materials, equipment and services to be supplied under the Contract and financed by AFD may have their origin in any country subject to the restrictions specified in Section V - Eligibility Criteria, and all expenditures under the Contract will not contravene such restrictions.

B. Contents of the Prequalification Documents

- 6 Sections of Prequalification Documents**
- 6.1 These Prequalification Documents consist of parts 1 and 2 which comprise all the sections indicated below, and which should be read in conjunction with any Addendum issued in accordance with ITA 8.

PART I: Prequalification Procedures

- Section I - Instructions to Applicants (ITA)
- Section II – Prequalification Data Sheet (PDS)
- Section III – Evaluation and Prequalification Criteria
- Section IV – Application Forms
- Section V – Eligibility Criteria
- Section VI – AFD Policy – Corrupt and Fraudulent practices – Environmental and Social Responsibility

PART II: Works Requirements

- Section VII – Scope of Works

- 6.2 Unless obtained directly from the Employer, the Employer accepts no responsibility for the completeness of the Prequalification Documents, responses to requests for clarification, or Addenda in accordance with ITA 8. In case of any discrepancies, documents issued directly by the Employer shall prevail.
- 6.3 The Applicant is expected to examine all instructions, forms, and terms in the Prequalification Documents and to furnish with its Application all information or documentation as is required by the Prequalification Documents.
- 7 Clarification of Prequalification Documents**
- 7.1 A prospective Applicant requiring any clarification of the Prequalification Documents shall contact the Employer in writing at the Employer's address indicated in the **PDS**. The Employer will respond in writing to any request for clarification provided that such request is received no later than fourteen (14) days prior to the deadline for submission of the applications. The Employer shall forward a copy of its response to all prospective Applicants who have obtained the Prequalification Documents directly from the Employer, including a description of the inquiry but without identifying its source. If so indicated in the **PDS**, the Employer shall also promptly publish its response at the web page identified in the **PDS**. Should the Employer deem it necessary to amend the Prequalification Documents as a result of a clarification, it shall do so following the procedure under ITA 8 and in accordance with the provisions of ITA 17.2.
- 8 Amendment of Prequalification Documents**
- 8.1 At any time prior to the deadline for submission of Applications, the Employer may amend the Prequalification Documents by issuing an Addendum.
- 8.2 Any Addendum issued shall be part of the Prequalification Documents and shall be communicated in writing to all prospective Applicants who have obtained the Prequalification Documents from the Employer. The Employer shall promptly publish the Addendum at the Employer's web page identified in the **PDS**.
- 8.3 To give prospective Applicants reasonable time to take an Addendum into account in preparing their Applications, the Employer may, at its discretion, extend the deadline for the submission of Applications in accordance with ITA 17.2.
- C. Preparation of Applications**
- 9 Cost of Applications**
- 9.1 The Applicant shall bear all costs associated with the preparation and submission of its Application. The Employer will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the prequalification process.
- 10 Language of Application**
- 10.1 The Application as well as all correspondence and documents relating to the prequalification exchanged by the Applicant and the Employer, shall be written in the language specified in the **PDS**. Supporting documents and printed literature that are part of the Application may be in another language, provided they are accompanied by an accurate translation of the relevant passages in the language specified in the **PDS**, in which case, for purposes of interpretation of the Application, the translation shall govern.
- 11 Documents Comprising the Application**
- 11.1 The Application shall comprise the following:
- a) Application Submission Form, the Statement of Integrity duly signed, in accordance with ITA 12 and ITA 13 and the completed Application Forms of Section IV - Application Forms;

- b) Documentary evidence establishing the Applicant's eligibility, in accordance with ITA 13;
 - c) Documentary evidence establishing the Applicant's qualifications, in accordance with ITA 14; and
 - d) Any other document required as specified in the **PDS**.
- 12 Application Submission Form** 12.1 The Applicant shall complete an Application Submission Form as provided in Section IV - Application Forms. This Form must be completed without any alteration to its format.
- 13 Documents Establishing the Eligibility of the Applicant** 13.1 To establish its eligibility in accordance with ITA 4, the Applicant shall complete and sign the Statement of Integrity, Eligibility and Social and Environmental Responsibility as provided in Section IV - Application Forms without any alteration to its format and furnish supporting documentation as specified in Forms ELI-1.1 and ELI-1.2.
- 14 Documents Establishing the Qualifications of the Applicant** 14.1 To establish its qualifications to perform the contract(s) in accordance with Section III - Evaluation and Prequalification Criteria, the Applicant shall provide the information requested in the corresponding Forms included in Section IV - Application Forms.
- 15 Signing of the Application and Number of Copies** 15.1 The Applicant shall prepare one original of the documents comprising the Application as described in ITA 11 and clearly mark it "ORIGINAL". The original of the Application shall be typed or written in indelible ink and shall be signed by a person duly authorized to sign on behalf of the Applicant. In case the Applicant is a JV, the Application shall be signed by an authorized representative of the JV on behalf of the JV and so as to be legally binding on all the members as evidenced by a power of attorney signed by their legally authorized signatories. If a JV has not been formalized and a letter of intent to form a JV is presented, then the Application shall be signed by every member of the intended JV.
- 15.2 The Applicant shall submit copies of the signed original Application, in the number specified in the **PDS**, and clearly mark them "COPY". In the event of any discrepancy between the original and the copies, the original shall prevail

D. Submission of Applications

- 16 Sealing and Identification of Applications** 16.1 The Applicant shall enclose the original and the copies of the Application in a sealed envelope that shall:
- a) Bear the name and address of the Applicant;
 - b) Be addressed to the Employer, in accordance with ITA 17.1; and
 - c) Bear the specific identification of this prequalification process indicated in the **PDS** 1.1.
- 16.2 The Employer will accept no responsibility for not processing any envelope that was not identified as required in ITA 16.1 above
- 17 Deadline for Submission of Applications** 17.1 Applicants may either submit their Applications by mail or by hand. Applications shall be received by the Employer at the address and no later than the deadline indicated in the **PDS**. When so specified in the **PDS**, Applicants have the option of submitting their Applications electronically, in accordance with electronic application submission procedures specified in the **PDS**.
- 17.2 The Employer may, at its discretion, extend the deadline for the submission of Applications by amending the Prequalification

Documents in accordance with ITA 8, in which case all rights and obligations of the Employer and the Applicants subject to the previous deadline shall thereafter be subject to the deadline as extended.

- 18 Late Applications** 18.1 The Employer reserves the right to accept applications received after the deadline for submission of applications, unless otherwise specified in the **PDS**.
- 19 Opening of Applications** 19.1 The Employer shall open all Applications at the date, time and place specified in the **PDS**. Late Applications shall be treated in accordance with ITA 18.1. Applications submitted electronically (if permitted pursuant to ITA 17.1) shall be opened in accordance with the procedures specified in the **PDS**. The Employer shall prepare a record of the opening of Applications to include, as a minimum, the name of the Applicants. A copy of the record shall be distributed to all Applicants.

E. Procedures for Evaluation of Applications

- 20 Confidentiality** 20.1 Information relating to the Applications, their evaluation and result shall not be disclosed to Applicants or any other persons not officially concerned with the prequalification process until the notification of prequalification results is made to all Applicants in accordance with ITA 28.
- 20.2 From the deadline for submission of Applications to the time of notification of the results of the prequalification in accordance with ITA 28, any Applicant that wishes to contact the Employer on any matter related to the prequalification process (except as specified in 20.1 above), may do so only in writing.
- 21 Clarification of Applications** 21.1 To assist in the evaluation of Applications, the Employer may, at its discretion, ask an Applicant for a clarification (including missing documents) of its Application, to be submitted within a stated reasonable period of time. Any request for clarification from the Employer and all clarifications from the Applicant shall be in writing.
- 21.2 If an Applicant does not provide clarifications and/or documents requested by the date and time set in the Employer's request for clarification, its Application shall be evaluated based on the information and documents available at the time of evaluation of the Application.
- 22 Responsiveness of Applications** 22.1 The Employer may reject any Application which is not responsive to the requirements of the Prequalification Documents.
- 23 Margin of Preference** 23.1 Unless otherwise specified in the **PDS**, a margin of preference for domestic bidders shall not apply in the bidding process resulting from this prequalification.
- 24 Subcontractors** 24.1 Unless otherwise stated in the **PDS**, the Employer does not intend to execute any specific elements of the works by subcontractors selected in advance by the Employer (nominated subcontractors).
- 24.2 A "specialized subcontractor" is a subcontractor hired for specialized work as defined by the Employer in Section III-4.2, Experience. If no specialized work is specified by the Employer as such, subcontractors experience shall not be considered for Applications evaluation.
- 24.3 The Employer may decide to permit subcontracting for certain specialized works as indicated in Section III-4.2, Experience. The Employer may do so at its own initiative or at the request of the

Applicants during the prequalification process (if justified). When subcontracting is permitted by the Employer, the specialized subcontractors experience shall be considered for the evaluation. Section III - Evaluation and Prequalification Criteria, describes the qualification criteria for subcontractors.

F. Evaluation of Applications and Prequalification of Applicants

- 25 Evaluation of Applications**
- 25.1 The Employer shall use the factors, methods, criteria, and requirements defined in Section III - Evaluation and Prequalification Criteria, to evaluate the qualifications of the Applicants, and no other methods, criteria, or requirements shall be used. The Employer reserves the right to waive minor deviations from the qualification criteria if they do not materially affect the technical capability and financial resources of an Applicant to perform the contract.
- 25.2 Only the qualifications of the Applicant shall be considered. In particular, the qualifications of a parent or other affiliated company that is not party to the Applicant under a JV in accordance with ITA 4.2 shall not be considered.
- 25.3 In case of multiple contracts, Applicants should indicate in their Applications the individual contracts in which they are interested. The Employer shall prequalify each Applicant for the maximum combination of contracts for which the Applicant has thereby indicated its interest and for which the Applicant meets the appropriate aggregate requirements. The Evaluation and Prequalification Criteria are mentioned in Section III.
- 26 Employer's Right to Reject All Applications**
- 26.1 The Employer reserves the right to annul the prequalification process and reject all Applications at any time, without thereby incurring any liability to the Applicants.
- 27 Prequalification of Applicants**
- 27.1 All Applicants whose Applications substantially meet or exceed the specified qualification requirements will be prequalified by the Employer.
- 27.2 An Applicant may be "conditionally prequalified", that is, qualified subject to the Applicant submitting or correcting certain specified documents or deficiencies that do not materially affect the ability of the Applicant to perform the proposed contract, to the satisfaction of the Employer.
- 27.3 Applicants that are conditionally prequalified will be so informed along with the statement of the condition(s) which must be met to the satisfaction of the Employer before or at the time of submitting their bids.
- 28 Notification of Prequalification**
- 28.1 After the Employer has completed the evaluation of the Applications, it shall notify all Applicants in writing of the names of those Applicants who have been prequalified or conditionally prequalified. In addition, those Applicants who have been disqualified will be informed separately.
- 28.2 Applicants that have not been prequalified may write to the Employer to request, in writing, the grounds on which they were disqualified.
- 29 Invitation for Bids**
- 29.1 Promptly after the notification of the results of the prequalification, the Employer shall invite bids from all the Applicants that have been prequalified or conditionally prequalified.
- 29.2 Bidders may be required to provide a Bid Security or a Bid-Securing Declaration acceptable to the Employer in the form and an amount

to be specified in the Bidding Documents, and the successful Bidder shall be required to provide a Performance Security as specified in the Bidding Documents.

**30 Changes in
Qualifications of
Applicants**

- 30.1 Any change in the structure or formation of an Applicant after being prequalified in accordance with ITA 27 and invited to bid (including, in the case of a JV, any change in the structure or formation of any member thereto) shall be subject to the written approval of the Employer. Such approval shall be denied if (i) as a consequence of the change, the Applicant no longer substantially meets the qualification criteria set forth in Section III - Evaluation and Prequalification Criteria; or (ii) in the opinion of the Employer, the change may result in a substantial reduction in competition. Any such change should be submitted to the Employer not later than fourteen (14) days after the date of the Invitation for Bids.

Section II – Prequalification Data Sheet (PDS)

A. General	
ITA 1.1	The Employer is: Chief Executive Officer Coast Water Works Development Agency Address: P.O. Box 90417 – 80100, Mombasa, Kenya Telephone: +254 041 2315230 Email address: info@cwwda.go.ke
ITA 1.1	The number of contracts (lots) comprising the IPC is: one (1) contract (lot 1) The identification number of the IPC is: CWWDA/AFD/PQ/W4/2022-2023 The name of the IPC is: Lot 1 – Construction of the Mwache Trunk Main (Section 1), South Mainland Transmission Main and Dongo Kundu Reservoir The number and identification of lots (contracts) comprising this IPC is: Lot 1 – Construction of the Mwache Trunk Main (Section 1), South Mainland Transmission Main and Dongo Kundu Reservoir, CWWDA/AFD/PQ/W4/2022-2023
ITA 2.1	The name of the Project is: Improvement of Drinking Water and Sanitation Systems in Mombasa; Mwache Project - CKE 1103
ITA 4.1	Maximum number of members in the JV shall be: Three (3)
B. Contents of the Prequalification Documents	
ITA 7.1	For clarification purposes only, the Employer's address is: Attention: Chief Executive Officer, Coast Water Works Development Agency Address: P.O. Box 90417 – 80100, Mombasa, Kenya Electronic mail address: info@cwwda.go.ke or procurement@cwwda.go.ke
ITA 7.1 & 8.2	Web page: www.cwwda.go.ke
C. Preparation of applications	
ITA 10.1	The Application as well as all correspondence shall be submitted in English . Language for translation of supporting documents and printed literature is English .
ITA 11.1(d)	The Applicant shall submit with its Application, the following additional documents: i) Copies of Completion Certificates for successful project implementation for each reference project, demonstrating specific experience, as well as Employer's name and contact person information (name, position, official email, telephone and website). In case of references involving more than one party (e.g. in a JV), the detail of the scope handled by the relevant party shall be clearly stated. ii) Supporting original letters from the Applicant's Bank dated not older than six months from the latest date of deadline for application submission, confirming the respective lines of credit. iii) In case of a JV, a JV Agreement (intended), initialled and signed by the Parties to the JV, clearly stating among others, the areas of specialisation and roles of each member, and stating that the members are jointly and severally liable iv) In case a bidder has no pending litigation, evidence shall be attached in form of a clearance statement from a relevant Government body e.g. a Court of Law, Ministry of Justice or other authority mandated to provide such clearances (to be provided by all members of a JV).
ITA 15.2	In addition to the original , the number of copies to be submitted with the Application is: three (3) paper copies and one (1) digital copy (flashdisk).

D. Submission of Applications	
ITA 17.1	<p>The deadline for Application submission is:</p> <p>Date: 16th May 2023 Time: 1200 hours' local time Applicants <i>shall not</i> have the option of submitting their Applications electronically.</p> <p>For application submission purposes only, the Employer's address is:</p> <p>Attention: <i>Chief Executive Officer, Coast Water Works Development Agency</i> Address: <i>Nkrumah Road off Mikindani Street</i> City: <i>Mombasa</i> Country: <i>Kenya</i></p>
ITA 19.1	<p>The opening of the Applications shall be at:</p> <p>Address: <i>Coast Water Works Development Agency, Nkrumah Road off Mikindani Street</i> City: <i>Mombasa</i> Country: <i>Kenya</i> Date: 16th May 2023 Time: 1205 hours' local time</p> <p>Procedures for opening of applications submitted electronically: <i>Not Applicable</i></p>
E. Procedures for Evaluation of Applications	
ITA 23.1	A margin of preference <i>shall not</i> apply.
ITA 24.1	At this time the Employer <i>"does not intend"</i> to execute certain specific parts of the Works by subcontractors selected in advance (nominated subcontractors).

Section III – Evaluation and Prequalification Criteria

Evaluation

This Section contains all the methods, criteria, and requirements that the Employer shall use to evaluate Applications. The information to be provided in relation to each requirement and the definitions of the corresponding terms are included in the respective Application Forms.

Wherever an Applicant is required to state a monetary amount, Applicants should indicate the EUR equivalent using the rate of exchange determined as follows:

- For construction turnover or financial data required for each year - Exchange rate prevailing on the last day of the respective calendar year;
- Value of single contract - Exchange rate prevailing on the date of the contract.

Exchange rates shall be taken from the publicly available rate published by the Central Bank of the Employer's country. Any error in determining the exchange rates in the Application may be corrected by the Employer.

Prequalification Criteria

1. Eligibility and Qualification Criteria						
Criterion	Requirement	Single Entity	Joint Venture (existing or intended)			Documentation Required
			All Parties Combined	Each Member	One Member	
1.1 Nationality	Nationality in accordance with ITA 4.3	Must meet requirement	Must meet requirement	Must meet requirement	N/A	Forms ELI-1.1 and ELI-1.2, with attachments
1.2 Conflict of Interests	No conflicts of interest in accordance with ITA 4.4	Must meet requirement	Must meet requirement	Must meet requirement	N/A	Application Submission Form
1.3 AFD Eligibility	Not being ineligible to AFD financing, as described in ITA 4.3	Must meet requirement	Must meet requirement	Must meet requirement	N/A	Statement of Integrity, Eligibility and Social and Environmental Responsibility
1.4 Government Owned Entity	Meet conditions of ITA 4.3	Must meet requirement	Must meet requirement	Must meet requirement	N/A	Forms ELI-1.1 and ELI-1.2, with attachments

2. Historical Contract Non-Performance						
Criterion	Requirement	Single Entity	Joint Venture (existing or intended)			Documentation Required
			All Parties Combined	Each Member	One Member	
2.1 History of Non-Performing Contracts	Termination of a contract did not occur as a result of Applicant's default in the past five (5) years ¹ .	Must meet requirement	Must meet requirement	Must meet requirement ²	N/A	Form CON-2
2.2 Suspension Based on Execution of Bid Securing Declaration by the Employer	Not under suspension based on execution of a Bid Securing Declaration pursuant to ITA 4.5.	Must meet requirement	Must meet requirement	Must meet requirement	N/A	Application Submission Form
2.3 Pending Litigation	All pending litigation shall in total not represent more than one hundred percent (100%) of the Applicant's net worth and shall be treated as resolved against the Applicant.	Must meet requirement	N/A	Must meet requirement	N/A	Form CON-2

¹ Non-performance shall include all terminations of contracts where (a) non-performance was not challenged by the Applicant, including through referral to the dispute resolution mechanism under the respective contract, and (b) contracts that were so challenged but fully settled against the Applicant. Non-performance shall not include contracts where Employers decision was overruled by the dispute resolution mechanism.

² This requirement also applies to contracts executed by the Applicant as JV member.

3. Financial Situation and Performance						
Criterion	Requirement	Single Entity	Joint Venture (existing or intended)			Documentation Required
			All Parties Combined	Each Member	One Member	
3.1 Financial Capabilities	(i) The Applicant shall demonstrate that it has access to, or has available, liquid assets, unencumbered real assets, lines of credit, and other financial means (independent of any contractual advance payment) sufficient to meet the construction cash flow requirements estimated as EUR 5,600,000 (Euro Five Million, Six Hundred Thousand) for the subject contract(s) net of the Applicants other commitments;	Must meet requirement	Must meet requirement	N/A	N/A	Forms FIN-3.1 with attachments and FIN-3.3
	(ii) The Applicant shall also demonstrate, to the satisfaction of the Employer, that it has adequate sources of finance to meet the cash flow requirements on works currently in progress and for future contract commitments;	Must meet requirement	Must meet requirement	N/A	N/A	Forms FIN-3.1 and FIN-3.4
	(iii) The audited balance sheets or, if not required by the laws of the Applicant's country, other financial statements acceptable to the Employer, for the last five (5) years shall be submitted and demonstrate the current soundness of the Applicant's financial position. The Applicant's financial position will be	Must meet requirement	N/A	Must meet requirement	N/A	Form FIN–3.1 with attachments

3. Financial Situation and Performance						
Criterion	Requirement	Single Entity	Joint Venture (existing or intended)			Documentation Required
			All Parties Combined	Each Member	One Member	
	deemed sound if at least two (2) of the following four (4) criteria are met: a) Average earnings before interest, taxes, depreciation, and amortization (EBITDA) for the last three (3) years > 0; b) Total equity (net worth) for the last three (3) years > 0; c) Average liquidity ratio for the last three (3) years > 1 ((Current assets) / (Current liabilities) > 1); d) Average indebtedness ratio for the last three (3) years < 6 ((Total financial liabilities) / (EBITDA) < 6).					
3.2 Minimum Annual Turnover	Minimum average annual turnover of EUR 45,000,000 (Euro Forty Five Million) , for the last five (5) years.	Must meet requirement	Must meet requirement	Must meet at least twenty five per cent (25%) of the requirement	Lead Member Must meet at least forty per cent (40%) of the requirement	Form FIN-3.2

4. Experience						
Criterion	Requirement	Single Entity	Joint Venture (existing or intended)			Documentation Required
			All Parties Combined	Each Member	One Member	
4.1 General Construction Experience	Experience under construction contracts in the role of prime contractor, JV member, subcontractor, or management contractor for at least the last 5 (five) years, starting 1st January 2018	Must meet requirement	N/A	Must meet requirement	N/A	Form EXP-4.1
4.2 (a) Specific Construction & Contract Management Experience	A minimum number of similar ³ contracts specified below that have been satisfactorily and substantially ⁴ completed as a prime contractor, joint venture member ⁵ management contractor or subcontractor between 1st January 2015 and application submission deadline: Two (2) Contracts, each of minimum value EUR 35,000,000 (Euro Thirty Five Million)	Must meet requirement	Must meet requirement ⁶	N/A	N/A	Form EXP-4.2(a)

³ The similarity shall be based on the physical size, complexity and technicity of the Works. Adding up small value contracts (less than the value specified under requirement) to meet the overall requirement will not be accepted.

⁴ Substantial completion shall be based on 80% or more works completed under the contract.

⁵ For contracts under which the Applicant participated as a joint venture member or subcontractor, only the Applicant's share, by value, shall be considered to meet this requirement.

⁶ In the case of a JV, the value of contracts completed by its members shall not be aggregated to determine whether the requirement of the minimum value of a single contract has been met. For instance, if the criterion mentions "two (2) contracts with a minimum value of 50M\$ each", a JV composed of 3 members and having carried out four (4) contracts of 30M\$ each shall not be qualified. On the other hand, if 2 of the 3 members of the JV each carried out one (1) contract of 50M\$, the criterion is met, even if the third member does not have any contract of this value.

4. Experience						
Criterion	Requirement	Single Entity	Joint Venture (existing or intended)			Documentation Required
			All Parties Combined	Each Member	One Member	
4.2 (b) Specific Experience	For the above and any other contracts completed and under implementation as prime contractor, joint venture member, management contractor or subcontractor ⁷ on or after the first day of the calendar year during the period stipulated in 4.2 (a) above, a minimum construction experience in the following key activities successfully completed in Countries in the Tropical Zone ⁸ :					
	<p>i) Experience in Construction of Large Water Supply Pipelines: Construction of large diameter Water Supply Pipelines (Steel Pipeline with Welded Joints or Ductile Iron Pipeline with Push-On Joints) of size 900mm diameter and above and length 15km and above at a rate of at least 2.0km per month</p>	Must meet requirement	Must meet requirement	N/A	Must meet requirement	Form EXP-4.2(b)
	<p>ii) Experience in Major Concrete Works for Water Retaining Structures Construction of Reinforced Concrete Water Retaining Structures of capacity 15,000m³ and above (e.g. Water Storage Tanks) involving production and placing of reinforced concrete at an average rate of at least 300m³ per month.</p>	Must meet requirement	Must meet requirement	N/A	Must meet requirement	Form EXP-4.2(b)

⁷ For contracts under which the Bidder participated as a joint venture member or subcontractor, only the Bidder's share shall be counted to meet this requirement.

⁸ For example, experience of works while in operation may be required under this criterion. Volume, number or rate of production of any key activity can be demonstrated in one or more contracts combined if executed during same time period. The rate of production shall be the monthly or annual production rate for the key construction activity (or activities).

5. Environmental, Social, Health and Safety (ESHS)						
Criterion	Requirement	Single Entity	Joint Venture (existing or intended)			Documentation Required
			All Parties Combined	Each Member	One Member	
5.1 ESHS Certification(s)	Availability of a valid ISO certification or internationally recognized equivalent (equivalency to be demonstrated by Applicant), and applicable to the worksite. <input checked="" type="checkbox"/> Quality management certificate ISO 9001 ⁹ ; <input checked="" type="checkbox"/> Environmental management certificate ISO 14001 ¹⁰ ; <input checked="" type="checkbox"/> Health and safety management certificate ISO 45001 ¹¹ .	Must meet requirement	N/A	N/A	Lead Member must meet requirement	Form CER Form CER Form CER
5.2 ESHS Documentation	Availability of in-house policies and procedures acceptable to the Employer for ESHS management: 1. Existence of an Ethics Charter; 2. Existence of a system for monitoring compliance with ESHS commitments for the Applicant's	Must meet requirement	N/A	N/A	Lead Member must meet requirement	1. The ESHS Ethics Charter of the company or equivalent must be provided. 2. A procedure or information on how the Bidder ensures that all members of the Joint Venture, subcontractors, suppliers and temporary labor (i) are aware and (ii) meet ESHS requirements must be provided.

⁹ [The ISO 9001 certification covers the principles of quality management, including a strong customer focus, motivation and commitment of management, process approach and continuous improvement.

¹⁰ [The ISO 14001 certification defines the criteria for an environmental management system.

¹¹ [The ISO 45001 certification defines a management system for health and safety at work with the overall objective of preventing the occurrence of work-related injuries and diseases among workers and providing safe and healthy workplaces.

5. Environmental, Social, Health and Safety (ESHS)						
Criterion	Requirement	Single Entity	Joint Venture (existing or intended)			Documentation Required
			All Parties Combined	Each Member	One Member	
	subcontractors and all its partners; 3. Existence of official company procedures for the management of the following relevant points: <input checked="" type="checkbox"/> ESHS resources and facilities and ESHS monitoring organization; <input checked="" type="checkbox"/> Project Areas management (base camps, quarries, borrow pits, storage areas); <input checked="" type="checkbox"/> Health & Safety on worksites; <input checked="" type="checkbox"/> Local recruitment and ESHS trainings of local staff (capacity building), ESHS trainings of subcontractors and local partners (transfer of knowledge); <input checked="" type="checkbox"/> Site rehabilitation and revegetation					3. Official internal procedure documents on the topics indicated must be provided.

5. Environmental, Social, Health and Safety (ESHS)						
Criterion	Requirement	Single Entity	Joint Venture (existing or intended)			Documentation Required
			All Parties Combined	Each Member	One Member	
5.3 Similar Experience	Experience of 2 (two) construction contracts over the last 10 (ten) years, where major ESHS measures were carried out or are on progress satisfactorily and in compliance with international standards.	Must meet requirement	N/A	N/A	Lead Member must meet requirement	Form EXP-ESHS with supporting documents (the Applicant shall submit a piece of evidence supporting the ESHS implementation measures)
5.4 Specific ESHS Knowledge Transfer Experience	Experience of one (1) construction contract in developing/ emerging countries over the last five (5) years in which the ESHS knowledge transfer to a local partner or the ESHS capacity building of the Employer's country staff was carried out satisfactorily.	Must meet requirement	N/A	N/A	Leader must meet requirement	Form EXP-ESHS with supporting documents (The Applicant shall submit a piece of evidence supporting the ESHS knowledge transfer or capacity building)
5.5 ESHS Dedicated Personnel	Availability of in-house personnel dedicated to ESHS issues: Environmental and Social Manager, and/or Health and Safety Manager.	Must meet requirement	N/A	N/A	Lead Member must meet requirement	Organizational chart evidencing filled ESHS position(s)

6. Security¹²							
Criterion	Requirement	Single Entity	Joint Venture (existing or intended)			Documentation Required	
			All Parties Combined	Each Member ¹³	One Member		
6.1 Specific experience in areas with security risks	Experience of two (2) contracts completed within the last ten (10) years in an area with a similar security risk requiring the implementation of a security plan	Must meet requirement	N/A	Must meet requirement	Lead Member must meet requirement	Form EXP-4.2(b): for each experience listed, the security plan, as well as proof of the implementation of security measures must be provided¹⁴	
6.2 Security documentation	Having internal security management procedures and systems for business trips and on worksites	Must meet requirement	N/A	Must meet requirement	Lead Member must meet requirement	Supply of the following documents acceptable to the Employer: – Description of the monitoring and alert system – Crisis management procedure	
6.3 Repatriation	Subscription to an emergency repatriation assistance contract	Must meet requirement	N/A	Must meet requirement	Lead Member must meet requirement	Furnish a certificate from the company that will provide repatriation services	
6.4 Security preparation	Existence and implementation of procedures and tools for preparing employees likely to work or who are working in areas with security risks	Must meet requirement	N/A	Must meet requirement	Lead Member must meet requirement	Procedures and preparation tools provided at the time of departure with proof of implementation (proof of awareness-raising or training actions carried out)	
6.5 Dedicated security personnel	Availability of personnel dedicated to security issues: security officer or equivalent with a minimum of two (2) years of relevant experience within the last seven (7) years	Must meet requirement	N/A	N/A	Lead Member must meet requirement	Organisational chart highlighting a filled position dedicated to security and the security officer's CV	

¹² [Note: The Project Area is labelled as “Yellow” by the French Ministry of European and Foreign Affairs]

¹³ [With the exception of companies that have their registered office in the country of the Employer (except the Leader of the JV, which must meet each of the criteria).]

¹⁴ [Proof of acceptable implementation: contract or certification of a contract with security companies, proof of security training before departure on-site, security service provider invoices, proof of crisis simulation tests or an audit of the security plan.]

Section IV – Application Forms

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Application Submission Form

Date: _____

IPC No. and title: **CWWDA/AFD/PQ/W4/2022-2023
Improvement of Drinking Water and Sanitation Systems in
Mombasa, Lot 1 – Construction of the Mwache Trunk Main
(Section 1), South Mainland Transmission Main and Dongo Kundu Reservoir**

To: Chief Executive Officer
Coast Water Works Development Agency
P.O. Box 90417 – 80100
Mombasa, Kenya

We, the undersigned, apply to be prequalified for the referenced IPC and declare that:

- a) We have examined and have no reservations to the Prequalification Documents, including Addendum(s) No(s). *[insert the number and issuing date of each addendum]*, issued in accordance with Instructions to Applicants (ITA 8);
- b) We have no conflict of interest in accordance with ITA 4.4;
- c) We have not been suspended nor declared ineligible by the Employer based on execution of a Bid Securing Declaration in the Employer's country in accordance with ITA 4.5;
- d) We understand that you reserve the right to annul the prequalification process and reject all Applications at any time, without thereby incurring any liability to the Applicants.

Signed *[insert signature(s) of an authorized representative(s) of the Applicant]*

Name: _____
[insert full name of person signing the Application]

In the capacity of: _____
[insert capacity of person signing the Application]

Duly authorized to sign the Application for and on behalf of:

Applicant's name: _____
[insert full name of Applicant or the name of the JV]

Address: _____
[insert street number/town or city/country address]

Dated on: _____ day of: _____ year: _____

[For a joint venture, either all members shall sign or only the authorized representative, in which case the power of attorney to sign on behalf of all members shall be attached. In case of a letter of intent to form a joint venture, it shall be attached and all members shall sign it.]

Statement of Integrity, Eligibility and Environmental and Social Responsibility

Improvement of Drinking Water and Sanitation Systems in Mombasa, Lot 1 – Construction of the Mwache Trunk Main (Section 1), South Mainland Transmission Main and Dongo Kundu Reservoir (the "Contract")

To: **The Chief Executive Officer, Coast Water Works Development Agency, P.O. Box 90417 – 80100, Mombasa, Kenya (the "Contracting Authority")**

1. We recognise and accept that *Agence Française de Développement* ("**AFD**") only finances projects of the Contracting Authority subject to its own conditions which are set out in the Financing Agreement which benefits directly or indirectly to the Contracting Authority. As a matter of consequence, no legal relationship exists between AFD and our company, our joint venture or our suppliers, contractors, subcontractors, consultants or subconsultants. The Contracting Authority retains exclusive responsibility for the preparation and implementation of the procurement process and performance of the contract. The Contracting Authority means the Purchaser, the Employer, the Client, as the case may be, for the procurement of goods, works, plants, consulting services or non-consulting services.
2. We hereby certify that neither we nor any other member of our joint venture or any of our suppliers, contractors, subcontractors, consultants or subconsultants are in any of the following situations:
 - 2.1 Being bankrupt, wound up or ceasing our activities, having our activities administered by the courts, having entered into receivership, reorganisation or being in any analogous situation arising from any similar procedure;
 - 2.2 Having been:
 - a) convicted, within the past five years by a court decision, which has the force of *res judicata* in the country where the Contract is implemented, of fraud, corruption or of any other offense committed during a procurement process or performance of a contract (in the event of such conviction, you may attach to this Statement of Integrity supporting information showing that this conviction is not relevant in the context of this Contract);
 - b) subject to an administrative sanction within the past five years by the European Union or by the competent authorities of the country where we are constituted, for fraud, corruption or for any other offense committed during a procurement process or performance of a contract (in the event of such sanction, you may attach to this Statement of Integrity supporting information showing that this sanction is not relevant in the context of this Contract);
 - c) convicted, within the past five years by a court decision, which has the force of *res judicata*, of fraud, corruption or of any other offense committed during the procurement process or performance of an AFD-financed contract;
 - 2.3 Being listed for financial sanctions by the United Nations, the European Union and/or France for the purposes of fight-against-terrorist financing or threat to international peace and security;
 - 2.4 Having been subject within the past five years to a contract termination fully settled against us for significant or persistent failure to comply with our contractual obligations during contract performance, unless this termination was challenged and dispute resolution is still pending or has not confirmed a full settlement against us;
 - 2.5 Not having fulfilled our fiscal obligations regarding payments of taxes in accordance with the legal provisions of either the country where we are constituted or the Contracting Authority's country;

- 2.6 Being subject to an exclusion decision of the World Bank and being listed on the website <http://www.worldbank.org/debarr> (in the event of such exclusion, you may attach to this Statement of Integrity supporting information showing that this exclusion is not relevant in the context of this Contract);
- 2.7 Having created false documents or committed misrepresentation in documentation requested by the Contracting Authority as part of the procurement process of this Contract.
3. We hereby certify that neither we, nor any of the members of our joint venture or any of our suppliers, contractors, subcontractors, consultants or subconsultants are in any of the following situations of conflict of interest:
 - 3.1 Being an affiliate controlled by the Contracting Authority or a shareholder controlling the Contracting Authority, unless the stemming conflict of interest has been brought to the attention of AFD and resolved to its satisfaction;
 - 3.2 Having a business or family relationship with a Contracting Authority's staff involved in the procurement process or the supervision of the resulting Contract, unless the stemming conflict of interest has been brought to the attention of AFD and resolved to its satisfaction;
 - 3.3 Being controlled by or controlling another bidder or consultant, or being under common control with another bidder or consultant, or receiving from or granting subsidies directly or indirectly to another bidder or consultant, having the same legal representative as another bidder or consultant, maintaining direct or indirect contacts with another bidder or consultant which allows us to have or give access to information contained in the respective applications, bids or proposals, influencing them or influencing decisions of the Contracting Authority;
 - 3.4 Being engaged in a consulting services activity, which, by its nature, may be in conflict with the assignments that we would carry out for the Contracting Authority;
 - 3.5 In the case of procurement of goods, works or plants:
 - a) Having prepared or having been associated with a consultant who prepared specifications, drawings, calculations and other documentation to be used in the procurement process of this Contract;
 - b) Having been recruited (or being proposed to be recruited) ourselves or any of our affiliates, to carry out works supervision or inspection for this Contract.
4. If we are a state-owned entity, and to compete in a procurement process, we certify that we have legal and financial autonomy and that we operate under commercial laws and regulations.
5. We undertake to bring to the attention of the Contracting Authority, which will inform AFD, any change in situation with regard to points 2 to 4 here above.
6. In the context of the procurement process and performance of the corresponding contract:
 - 6.1 We have not and we will not engage in any dishonest conduct (act or omission) deliberately intended to deceive others, to intentionally conceal items, to violate or vitiate someone's consent, to make them circumvent legal or regulatory requirements and/or to violate their internal rules in order to obtain illegitimate profit;
 - 6.2 We have not and we will not engage in any dishonest conduct (act or omission) contrary to our legal or regulatory obligations or our internal rules in order to obtain illegitimate profit;
 - 6.3 We have not promised, offered or given and we will not promise, offer or give, directly or indirectly to (i) any Person who holds a legislative, executive, administrative or judicial mandate within the State of the Contracting Authority regardless of whether that Person was nominated or elected, regardless of the permanent or temporary, paid or unpaid nature of the position and regardless of the hierarchical level the Person occupies, (ii) any other Person who performs a public function, including for a State institution or a State-owned company, or who provides a public service, or (iii) any other person defined as a Public Officer by the national laws of the Contracting Authority's country, an undue

- advantage of any kind, for himself or for another Person or entity, for such Public Officer to act or refrain from acting in his official capacity;
- 6.4 We have not promised, offered or given and we will not promise, offer or give, directly or indirectly to any Person who occupies an executive position in a private sector entity or works for such an entity, regardless of the nature of his/her capacity, any undue advantage of any kind, for himself or another Person or entity for such Person to perform or refrain from performing any act in breach of its legal, contractual or professional obligations;
- 6.5 We have not and we will not engage in any practice likely to influence the contract award process to the detriment of the Contracting Authority and, in particular, in any anti-competitive practice having for object or for effect to prevent, restrict or distort competition, namely by limiting access to the market or the free exercise of competition by other undertakings;
- 6.6 Neither we nor any of the members of our joint venture or any of our suppliers, contractors, subcontractors, consultants or subconsultants shall acquire or supply any equipment nor operate in any sectors under an embargo of the United Nations, the European Union or France;
- 6.7 We commit ourselves to comply with and ensure that all of our suppliers, contractors, subcontractors, consultants or subconsultants comply with international environmental and labour standards, consistent with laws and regulations applicable in the country of implementation of the Contract, including the fundamental conventions of the International Labour Organisation (ILO) and international environmental treaties. Moreover, we shall implement environmental and social risks mitigation measures when specified in the environmental and social commitment plan (ESCP) provided by the Contracting Authority.
7. We, as well as members of our joint venture and our suppliers, contractors, subcontractors, consultants or subconsultants authorise AFD to inspect accounts, records and other documents relating to the procurement process and performance of the contract and to have them audited by auditors appointed by AFD.

Name: _____ In the capacity of: _____

Duly empowered to sign in the name and on behalf of¹: _____

Signature: _____

Dated: _____

¹ In case of joint venture, insert the name of the joint venture. The person who will sign the application, bid or proposal on behalf of the applicant, bidder or consultant shall attach a power of attorney from the applicant, bidder or consultant.

Applicant Prequalification Forms

Form ELI-1.1: Applicant Information Form

Date: [insert day, month, year]

IPC No. and title: **CWWDA/AFD/PQ/W4/2022-2023
Improvement of Drinking Water and Sanitation Systems in
Mombasa, Lot 1 – Construction of the Mwache Trunk Main
(Section 1), South Mainland Transmission Main and Dongo Kundu Reservoir**

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Applicant's name: _____
[insert full name]

In case of Joint Venture (JV), name of each member: _____
[insert full name of each member in JV]

In case of a JV, Applicant's actual or intended country of constitution: _____
[indicate country of Constitution]

Applicant's actual or intended year of constitution: _____
[indicate year of Constitution]

Applicant's legal address (in country of constitution): _____
[insert street / number / town or city / country]

Applicant's authorized representative information:

Name: _____
[insert full name]

Address: _____
[insert street / number / town or city / country]

Telephone/Fax numbers: _____
[insert telephone/fax numbers, including country and city codes]

Email address: _____
[indicate email address]

1. Attached are copies of original documents of:

- Articles of Constitution (or equivalent documents of association), of the legal entity named above.
- In case of JV, letter of intent to form JV or JV agreement, in accordance with ITA 4.1.
- In case of state-owned enterprise or institution, in accordance with ITA 4.3, documents establishing:
 - Legal and financial autonomy
 - Operation under commercial law
 - That the Applicant is not dependent agency of the Employer

2. Included are the organizational chart, a list of Board of Directors, and the beneficial ownership.

Form ELI-1.2: Applicant's JV Information Form

[The following table shall be filled by each member of a Joint Venture and, if applicable, by any specialized subcontractor, and in that case substitute "Applicant's JV member" for "specialized subcontractor".]

Date: [insert day, month, year]

IPC No. and title: **CWWDA/AFD/PQ/W4/2022-2023
Improvement of Drinking Water and Sanitation Systems in
Mombasa, Lot 1 – Construction of the Mwache Trunk Main
(Section 1), South Mainland Transmission Main and Dongo
Kundu Reservoir**

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Applicant name: _____ [insert full name]
Applicant's JV Member's name: _____ [insert full name of Applicant's JV Member]
Applicant's JV Member's country of constitution: _____ [indicate country of constitution]
Applicant's JV Member's year of constitution: _____ [indicate year of constitution]
Applicant's JV Member's legal address in country of constitution: _____ [insert street / number / town or city / country]
Applicant's JV Member's authorized representative information: Name: _____ [insert full name] Address: _____ [insert street / number / town or city / country] Telephone/Fax numbers: _____ [insert telephone/fax numbers, including country and city codes] Email address: _____ [indicate email address]
1. Attached are copies of original documents of: <input type="checkbox"/> Articles of Constitution (or equivalent documents of association), of the legal entity named above. <input type="checkbox"/> In case of state-owned enterprise or institution, in accordance with ITA 4.3, documents establishing: <ul style="list-style-type: none">• Legal and financial autonomy• Operation under commercial law• That the Applicant is not dependent agency of the Employer
2. Included are the organizational chart, a list of Board of Directors, and the beneficial ownership.

**Form CON-2:
Historical Contract Non-Performance, Pending Litigation and Litigation History**

[The following table shall be filled in for the Applicant and for each member of a Joint Venture]

Applicant's Name: *[insert full name]*

Date: *[insert day, month, year]*

Joint Venture Member's Name: *[insert full name]*

IPC No. and title: **CWWDA/AFD/PQ/W4/2022-2023
Improvement of Drinking Water and Sanitation Systems in
Mombasa, Lot 1 – Construction of the Mwache Trunk Main
(Section 1), South Mainland Transmission Main and Dongo Kundu Reservoir**

Page *[insert page number]* of *[insert total number]* pages

Non-Performed Contracts in accordance with Section III - Evaluation and Prequalification Criteria			
<input type="checkbox"/> Contract non-performance did not occur since 1st January 2017 specified in Section III - Evaluation and Prequalification Criteria, criterion 2.1.			
<input type="checkbox"/> Contract(s) not performed since 1 st January 2017 specified in Section III - Evaluation and Prequalification Criteria, criterion 2.1, as indicated below:			
Year	Non-performed portion of contract	Contract Identification	Total Contract Amount (current value, currency, exchange rate and EUR equivalent)
<i>[insert year]</i>	<i>[insert amount and percentage]</i>	Contract Identification: <i>[indicate complete contract name/ number, and any other identification]</i> Name of Employer: <i>[insert full name]</i> Address of Employer: <i>[insert street/city/country]</i> Reason(s) for non-performance: <i>[indicate main reason(s)]</i>	<i>[insert amount]</i>

Pending Litigation, in accordance with Section III - Evaluation and Prequalification Criteria			
<input type="checkbox"/> No pending litigation in accordance with Section III - Evaluation and Prequalification Criteria, criterion 2.3. <input type="checkbox"/> Pending litigation in accordance with Section III - Evaluation and Prequalification Criteria, criterion 2.3 as indicated below:			
Year of dispute	Amount in dispute (currency)	Contract Identification	Total Contract Amount (currency), EUR Equivalent (exchange rate)
<i>[insert year]</i>	<i>[insert amount]</i>	Contract Identification: <i>[indicate complete contract name, number, and any other identification]</i> Name of Employer: <i>[insert full name]</i> Address of Employer: <i>[insert street/city/country]</i> Matter in dispute: <i>[indicate main issues in dispute]</i> Party who initiated the dispute: <i>[indicate "Employer" or "Contractor"]</i> Status of dispute: <i>[indicate if it is being treated by the Adjudicator, under Arbitration or being dealt with by the Judiciary, specify "pending" or "settled"]</i>	<i>[insert amount]</i>
<i>[insert year]</i>	<i>[insert amount]</i>	...	<i>[insert amount]</i>
...

**Form FIN–3.1:
Financial Situation and Performance**

[The following table shall be filled in for the Applicant and for each member of a Joint Venture]

Applicant's Name: *[insert full name]*

Date: *[insert day, month, year]*

Joint Venture Member's Name: *[insert full name]*

IPC No. and title: **CWWDA/AFD/PQ/W4/2022-2023
Improvement of Drinking Water and Sanitation Systems in
Mombasa, Lot 1 – Construction of the Mwache Trunk Main
(Section 1), South Mainland Transmission Main and Dongo Kundu Reservoir**

Page *[insert page number]* of *[insert total number]* pages

1. Financial data

Type of Financial information in <i>[indicate currency]</i>	Historic information for previous <i>[insert number, in figure and in words]</i> years (Amount in <i>[indicate currency, exchange rate, EUR equivalent]</i>)				
	Year 1	Year 2	Year 3	Year 4	Year 5
Statement of financial position (information from balance sheet)					
Total assets (TA)					
Total financial liabilities ¹					
Total equity/Net worth (NW)					
Current assets					
Current liabilities					
Working capital (WC)					
Information from income statement					
Total revenue					
Earnings before interest, taxes, depreciation, and amortization (EBITDA) ²					
Earnings before taxes (EBT)					
Cash flow information					
Cash flow from operating activities					

¹ Means any financial indebtedness for and in respect of:
a) any monies borrowed on a short, medium or long-term basis;
b) any bank overdraft;
c) any amounts raised pursuant to any bills of exchange issued to a third party (or any dematerialised equivalent of such instrument);
d) any amounts raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instruments;
e) the amount of any liability in respect of any lease or hire purchase contract which would be treated as a finance or capital lease;
f) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis).

² Means, for any given year, the aggregate of:
(+) net income
(+) tax expense
(+/-) extraordinary income or expense
(+/-) financial result
(+/-) net foreign exchange losses or gains
(+) net depreciation and amortization allowances and provisions

2. Financial Documents

The Applicant and, in case of a JV, each member, shall provide copies of financial statements for **five (5)** years pursuant Section III - Evaluation and Prequalification Criteria, criterion 3.1. The financial statements shall:

- a) Reflect the financial situation of the Applicant or in case of JV member, and not an affiliated entity (such as parent company or subsidiary);
 - b) Be independently audited or certified in accordance with local legislation;
 - c) Be complete, including all notes to the financial statements;
 - d) Correspond to accounting periods already completed and audited.
- Attached are copies of financial statements³ for the **five (5)** years required above; and complying with the requirements.

³ If the most recent set of financial statements is for a period earlier than 12 months from the date of application, the reason for this should be justified.

**Form FIN–3.2:
Annual Turnover**

[The following table shall be filled in for the Applicant and for each member of a Joint Venture]

Applicant's Name: *[insert full name]*

Date: *[insert day, month, year]*

Joint Venture Member's Name: *[insert full name]*

IPC No. and title: **CWWDA/AFD/PQ/W4/2022-2023**

***Improvement of Drinking Water and Sanitation Systems in
Mombasa, Lot 1 – Construction of the Mwache Trunk Main
(Section 1), South Mainland Transmission Main and Dongo Kundu Reservoir***

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Year	Annual turnover data		
	Amount and Currency ¹	Exchange rate	EUR Equivalent
<i>[Indicate calendar year]</i>	<i>[insert amount and indicate currency]</i>	<i>[insert exchange rates used to calculate the EUR equivalent]</i>	<i>[insert EUR equivalent]</i>
		Average Annual Turnover²	

¹ The indicated turnover amounts must be identical as those appearing on the financial statements.

² See Section III - Evaluation and Prequalification Criteria, criterion 3.2.

**Form FIN–3.3:
Sources of Finance**

[The following table shall be filled in for the Applicant and all members combined in case of a Joint Venture]

Specify proposed sources of financing, such as liquid assets, unencumbered real assets, lines of credit, and other financial means, net of current commitments, available to meet the total construction cash flow demands of the subject contract or contracts as specified in Section III - Evaluation and Prequalification Criteria.

Financial Resources		
No.	Source of Financing	Amount (EUR equivalent)
1		
2		
3		
...		

**Form FIN-3.4:
 Current Contract Commitments / Works in Progress**

Applicants and each member to a JV should provide information on their current commitments on all contracts that have been awarded, or for which a letter of intent or acceptance has been received, or for contracts approaching completion, but for which an unqualified, full completion certificate has yet to be issued.

Current Contract Commitments					
No.	Name of Contract	Employer's Contact Address, Tel, Fax	Value of Outstanding Work (Current EUR Equivalent)	Estimated Completion Date	Average Monthly Invoicing Over Last Six Months (EUR/month)
1					
2					
3					
4					
5					
...					

**Form EXP-4.1:
General Construction Experience**

[The following table shall be filled in for the Applicant and in the case of a JV Applicant, each Member]

Applicant's Name: *[insert full name]*

Date: *[insert day, month, year]*

Joint Venture Member's Name: *[insert full name]*

IPC No. and title: **CWWDA/AFD/PQ/W4/2022-2023
Improvement of Drinking Water and Sanitation Systems in
Mombasa, Lot 1 – Construction of the Mwache Trunk Main
(Section 1), South Mainland Transmission Main and Dongo Kundu Reservoir**

Page *[insert page number]* of *[insert total number]* pages

*[Identify contracts that demonstrate continuous construction work over the past **five (5)** years pursuant to Section III - Evaluation and Prequalification Criteria, criterion 4.1. List contracts chronologically, according to their commencement (starting) dates.]*

Starting Year	Ending Year	Contract Identification	Role of Applicant
<i>[indicate year]</i> _____	<i>[indicate year]</i> _____	Contract Name: <i>[insert full name]</i> Brief description of the works performed by the Applicant: <i>[describe works performed briefly]</i> Amount of Contract: <i>[insert amount in currency, mention currency used, exchange rate and EUR equivalent]</i> Name of Employer: <i>[indicate full name]</i> Address: <i>[indicate street/number/town or city/country]</i>	<i>[insert "Prime Contractor" or "JV Member" or "Subcontractor" or "Management Contractor"]</i> _____
...

**Form EXP-4.2(a):
Specific Construction and Contract Management Experience**

*[The following table shall be filled in for contracts performed by the Applicant or each member of a
Joint Venture]*

Applicant's Name: *[insert full name]*

Date: *[insert day, month, year]*

Joint Venture Member's Name: *[insert full name]*

IPC No. and title: **CWWDA/AFD/PQ/W4/2022-2023
Improvement of Drinking Water and Sanitation Systems in
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(Section 1), South Mainland Transmission Main and Dongo Kundu Reservoir**

Page *[insert page number]* of *[insert total number]* pages

Similar Contract No.: _____ of 2	Information		
Contract Identification:	_____ <i>[insert contract name and number, if applicable]</i>		
Award Date:	_____ <i>[insert day, month, year, i.e., 15 June, 2015]</i>		
Completion Date:	_____ <i>[insert day, month, year, i.e., 03 October, 2017]</i>		
Role in Contract: <i>[check the appropriate box]</i>	<input type="checkbox"/> Prime Contractor	<input type="checkbox"/> Member in JV	<input type="checkbox"/> Management Contractor
Total Contract Amount:	_____ <i>[insert total contract amount in local currency]</i>	_____ EUR <i>[insert Exchange rate and total contract amount in EUR equivalent]</i>	
If member in a JV or subcontractor, specify participation in total Contract amount:	_____% <i>[insert a percentage amount]</i>	_____ <i>[insert total contract amount in local currency]</i>	_____ <i>[insert exchange rate and total contract amount in EUR equivalent]</i>
Employer's Name:	_____ <i>[insert full name]</i>		
Address:	_____ <i>[indicate street/number/town or city/country]</i>		
Telephone/Fax numbers:	_____ <i>[insert telephone/fax numbers, including country and city area codes]</i>		
Email:	_____ <i>[insert email address, if available]</i>		

**Form EXP-4.2(a) (cont.):
Specific Construction and Contract Management Experience (cont.)**

Applicant's Name: *[insert full name]*
Joint Venture Member's Name: *[insert full name]*

Similar Contract No.: _____ of 2	Information
Description of the similarity in accordance with criterion 4.2(a) of Section III - Evaluation and Prequalification Criteria	
1. Amount	_____ <i>[insert amount in local currency, exchange rate, EUR in words and in figures]</i>
2. Physical size of required works items	_____ <i>[insert physical size of items]</i>
3. Complexity	_____ <i>[insert description of complexity]</i>
4. Methods/Technology	_____ <i>[insert specific aspects of the methods/technology involved in the contract]</i>
5. Construction rate for key activities	_____ <i>[insert rates and items]</i>
6. Other Characteristics	_____ <i>[insert other characteristics as described in Section VII - Scope of Works]</i>

Note: The Applicant shall provide a Completion Certificate for each completed Project or a Supporting Letter from the Client for an existing Contract indicating percentage of Works completed for each of the references

**Form EXP-4.2(b):
Construction Experience in Key Activities**

Applicant's Name: *[insert full name]*

Date: *[insert day, month, year]*

Joint Venture Member's Name: *[insert full name]*

IPC No. and title: **CWWDA/AFD/PQ/W4/2022-2023
Improvement of Drinking Water and Sanitation Systems in
Mombasa, Lot 1 – Construction of the Mwache Trunk Main
(Section 1), South Mainland Transmission Main and Dongo Kundu Reservoir**

Subcontractor's Name¹ (as per ITA 24.3): *[insert full name]*

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1. Key Activity No. 1: Experience in Construction of Large Water Supply Pipelines (Steel or Ductile Iron), size 900mm diameter and above, length 15km and above

Information				
Contract Identification:	_____			
	<i>[insert contract name and number, if applicable]</i>			
Award Date:	_____			
	<i>[insert day, month, year, i.e., 15 June, 2015]</i>			
Completion Date:	_____			
	<i>[insert day, month, year, i.e., 03 October, 2017]</i>			
Role in Contract: <i>[check the appropriate box]</i>	<input type="checkbox"/> Prime Contractor	<input type="checkbox"/> Member in JV	<input type="checkbox"/> Management Contractor	<input type="checkbox"/> Subcontractor
Total Contract Amount:	_____			_____ EUR
	<i>[insert total contract amount in contract currency(ies)]</i>			<i>[insert exchange rate]</i>

	<i>[insert total contract amount in EUR equivalent]</i>			
Quantity (length of Pipeline constructed) under the contract per year or part of the year (indicate No. of months)	Size (diameter) of Pipeline	Total Quantity in the Contract (Km) (i)	Percentage participation (%) (ii)	Actual quantity performed (Km) (i) x (ii)
Year 1				
Year 2				
Year 3				
Year 4				
Employer's Name:	_____			
	<i>[insert full name]</i>			
Address:	_____			
	<i>[indicate street / number / town or city / country]</i>			
Telephone/Fax numbers:	_____			
	<i>[insert telephone/fax numbers, including country and city area codes]</i>			
Email:	_____			
	<i>[insert email address, if available]</i>			

Note: The Applicant shall provide a Completion Certificate for each completed Project or a Supporting Letter from the Client for an existing Contract indicating percentage of Works completed for each of the reference.

¹ If permitted by the Employer under "specialized works" in Table 4.2 (b) of Section III - Evaluation and Prequalification Criteria.

**Form EXP-4.2(b) (cont.):
Construction Experience in Key Activities (cont.)**

Applicant's Name: *[insert full name]*
Joint Venture Member's Name: *[insert full name]*

Key Activity No. 1 (cont.)

Description of the key activities in accordance with criterion 4.2(b) of Section III - Evaluation and Prequalification Criteria	
Project Characteristics	<i>Applicant to insert response to inquiry indicated in left column</i>
i) Size(s)/Diameters of Pipes laid in mm	
ii) Length of Pipeline in Km (if Pipeline had sections of varying diameters, indicate length of each diameter section)	
iii) Pipe Material(s) (e.g. Steel, Ductile Iron, etc.)	
iv) Method(s) of Jointing of Pipes & Fittings (e.g. couplings, flanged joints, welded joints, etc.)	
v) Duration of Pipeline Construction Activity (if in different sections, give durations for each section)	<i>Start Date (Month/Year)</i> _____ <i>Finish Date (Month/Year)</i> _____
vi) Applicant to provide briefly (within the space provided here) any other Technical Information regarding the reference Project and Key activity to demonstrate the Applicant's relevant experience and capabilities for similar works	

**Form EXP–4.2(b) (cont.):
Construction Experience in Key Activities (cont.)**

Applicant's Name: *[insert full name]*

Date: *[insert day, month, year]*

Joint Venture Member's Name: *[insert full name]*

IPC No. and title: **CWWDA/AFD/PQ/W4/2022-2023**

**Improvement of Drinking Water and Sanitation Systems in
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Subcontractor's Name² (as per ITA 24.3): *[insert full name]*

Page *[insert page number]* of *[insert total number]* pages

**2. Key Activity No. 2: Experience in Major Concrete Works for Water Retaining Structures
(e.g. Water Storage Tanks) of capacity 15,000m³ and above**

				Information			
Contract Identification:				<i>[insert contract name and number, if applicable]</i>			
Award Date:				<i>[insert day, month, year, i.e., 15 June, 2015]</i>			
Completion Date:				<i>[insert day, month, year, i.e., 03 October, 2017]</i>			
Role in Contract: <i>[check the appropriate box]</i>				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				Prime Contractor	Member in JV	Management Contractor	Subcontractor
Total Contract Amount:				<i>[insert total contract amount in contract currency(ies)]</i>		_____ EUR	<i>[insert exchange rate]</i>
				<i>[insert total contract amount in EUR equivalent]</i>			
Quantity (volume of Reinforced Concrete) produced and placed under the contract per year or part of the year (indicate No. of months)				Total Quantity in the Contract (m ³) (i)	Percentage participation (%) (ii)	Actual quantity performed (m ³) (i) x (ii)	
Year 1							
Year 2							
Year 3							
Year 4							
Employer's Name:				<i>[insert full name]</i>			
Address:				<i>[indicate street / number / town or city / country]</i>			
Telephone/Fax numbers:				<i>[insert telephone/fax numbers, including country and city area codes]</i>			
Email:				<i>[insert email address, if available]</i>			

Note: The Applicant shall provide a Completion Certificate for each completed Project or a Supporting Letter from the Client for an existing Contract indicating percentage of Works completed for each of the reference.

² If permitted by the Employer under "specialized works" in Table 4.2 (b) of Section III - Evaluation and Prequalification Criteria.

**Form EXP–4.2(b) (cont.):
Construction Experience in Key Activities (cont.)**

Applicant's Name: *[insert full name]*
Joint Venture Member's Name: *[insert full name]*

Key Activity No. 2 (cont.)

Description of the key activities in accordance with criterion 4.2(b) of Section III - Evaluation and Prequalification Criteria	
Project Characteristics	<i>Applicant to insert response to inquiry indicated in left column</i>
i) Type and Description of Reinforced Concrete Structures constructed e.g. Water Storage Tanks, Water/Wastewater Treatment Structures such as Sedimentation Tanks, Filters, etc. Indicate number of the structures, physical dimensions and capacities of the structures	
ii) Total Volume of concrete produced and placed for the above structures (m ³)	
iii) Total Quantity of Reinforcement Steel used (Tons)	
iv) Applicant to provide briefly (within the space provided here) any other Technical Information regarding the reference Project and Key activity to demonstrate the Applicant's relevant experience and capabilities for similar works	

**Form CER:
Quality Management/Environmental, Social, Health & Safety (ESHS)
Certification**

Applicant's Name: *[insert full name]*

Date: *[insert day, month, year]*

Joint Venture Member's Name: *[insert full name]*

IPC No. and title: **CWWDA/AFD/PQ/W4/2022-2023**

**Improvement of Drinking Water and Sanitation Systems in
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Certification *[Quality / Environmental / Health and Security]*
[Applicant to select as appropriate]

DESCRIPTION	INFORMATION
Identification of the certificate:	_____ <i>[insert full name of the certificate]</i>
Date of Issue:	_____ <i>[insert day, month, year of first certificate award]</i>
Areas covered by the certificate:	_____ <i>[activities and locations]</i>
Expiry Date:	_____ <i>[insert day, month, year]</i>
Issuer's Name:	_____ <i>[insert full name]</i>
Address:	_____ <i>[insert street / number / town or city / country]</i>
Telephone/Fax numbers:	_____ <i>[insert phone/fax no., incl. country & city area codes]</i>
Email:	_____ <i>[insert email address, if available]</i>
Compliance with international standards	The certificate is <i>[ISO 9001, ISO 14001, ISO 45001]</i> <i>[select as appropriate]</i> <input type="checkbox"/> Yes / <input type="checkbox"/> No
If no, proof of conformity with ISO standards by the Applicant	The Applicant shall provide a conformity assessment of its certificate by an internationally recognized Accredited Certification Body

The Applicant shall fill this Form for each Certification required under criterion 5.1 of Section III - Evaluation and Prequalification Criteria.

**Form EXP–ESHS:
Environmental, Social, Health and Safety (ESHS) Experience**

Applicant's Name: *[insert full name]*

Date: *[insert day, month, year]*

Joint Venture Member's Name: *[insert full name]*

IPC No. and title: **CWWDA/AFD/PQ/W4/2022-2023**

**Improvement of Drinking Water and Sanitation Systems in
Mombasa, Lot 1 – Construction of the Mwache Trunk Main
(Section 1), South Mainland Transmission Main and Dongo Kundu Reservoir**

Page *[insert page number]* of *[insert total number]* pages

Similar Contract No.: _____ of 2	Information		
Contract Identification:	_____ <i>[insert contract name and number, if applicable]</i>		
Short Project Description (main scope and key values of project):	_____ <i>[insert short project description]</i>		
Award date:	_____ <i>[insert day, month, year]</i>		
Completion date:	_____ <i>[insert day, month, year]</i>		
Role in Contract: <i>[check the appropriate box]</i>	<input type="checkbox"/> Prime Contractor	<input type="checkbox"/> Member in JV	<input type="checkbox"/> Management Contractor <input type="checkbox"/> Subcontractor
Total Contract Amount:	_____ <i>[insert total contract amount in local currency]</i>	_____ <i>[insert total contract amount in EUR equivalent]</i>	
If party in a JV or subcontractor, specify participation of total contract amount:	_____ % <i>[insert a percentage amount]</i>	_____ <i>[insert total contract amount in local currency]</i>	_____ <i>[insert total contract amount in EUR equivalent]</i>
Employer's name:	_____ <i>[insert full name]</i>		
Address:	_____ <i>[insert street / number / town or city / country]</i>		
Telephone/Fax numbers:	_____ <i>[insert phone/fax numbers, including country and city area codes]</i>		
Email:	_____ <i>[insert email address, if available]</i>		

Similar Contract No.: _____ of 2	Information
<p>Description of the ESHS challenges and measures implemented under the contract:</p> <p>a) ESHS Challenge:</p> <p>b) ESHS Risk Assessment Level:</p> <p>c) ESHS implemented measures (as per criterion 5.3 of Section III - Evaluation and Prequalification Criteria):</p> <p>d) ESHS Knowhow Transfer or ESHS Local Staff Capacity Building (as per criterion 5.4, if any, of Section III - Evaluation and Prequalification Criteria):</p>	<p><i>[Insert description]</i></p> <p><i>[Insert classification of risk assessment as per development bank classification if applicable]</i></p> <p><i>[Provide a document supporting the implementation of ESHS measures, acceptable to the Employer¹]</i></p> <p><i>[Provide evidence of successful:</i></p> <ul style="list-style-type: none"> – <i>ESHS knowhow transfer to local partners or subcontractors;</i> <i>or</i> – <i>ESHS capacity building to local staff under the contract.]</i>

¹ For example ESHS activity reports, ESHS final reports, ESHS inspection reports, supervision Engineer's reports, etc. Only documents evidencing implementation of ESHS measures shall be accepted.

² For example ESHS activity reports presenting training activities, training materials with attendance sheets, etc. Only documents evidencing ESHS knowhow transfer or ESHS local staff capacity building shall be accepted.

Section V – Eligibility Criteria

Eligibility in AFD-Financed Procurement

1. Financing allocated by AFD to a Contracting Authority has been entirely untied since 1st January 2002. To the exception of any equipment or any sector which is subject to an embargo by the United Nations, the European Union or France, all goods, works, plants, consulting services and non-consulting services are eligible for AFD financing regardless of the country of origin of the supplier, contractor, subcontractor, consultant or subconsultant inputs or resources used in the implementation processes. The Contracting Authority means the Purchaser, the Employer, the Client, as the case may be, for the procurement of goods, works, plants, consulting services or non-consulting services.
2. Natural or legal Persons¹ (including all members of a joint venture or any of their suppliers, contractors, subcontractors, consultants or subconsultants) shall not be awarded an AFD-financed contract if, on the date of submission of an application, a bid or a proposal, or on the date of award of a contract, they:
 - 2.1 Are bankrupt or being wound up or ceasing their activities, are having their activities administered by the courts, have entered into receivership, or are in any analogous situation arising from a similar procedure;
 - 2.2 Have been:
 - a) convicted, within the past five years by a court decision, which has the force of res judicata in the country where the contract is implemented, of fraud, corruption or of any other offense committed during a procurement process or performance of a contract, unless they provide supporting information together with their Statement of Integrity (Form available as Appendix to the Application, Bid or Proposal Submission Form) which shows that this conviction is not relevant in the context of the Contract;
 - b) subject to an administrative sanction within the past five years by the European Union or by the competent authorities of the country where they are constituted, for fraud, corruption or for any other offense committed during a procurement process or performance of a contract, unless they provide supporting information together with their Statement of Integrity (Form available as Appendix to the Application, Bid or Proposal Submission Form) which shows that this sanction is not relevant in the context of the Contract;
 - c) convicted, within the past five years by a court decision, which has the force of res judicata, of fraud, corruption or of any other offense committed during the procurement process or performance of an AFD-financed contract;
 - 2.3 Are listed for financial sanctions by the United Nations, the European Union and/or France for the purposes of fight-against-terrorist financing or threat to international peace and security;
 - 2.4 Have been subject within the past five years to a contract termination fully settled against them for significant or persistent failure to comply with their contractual obligations during contract performance, unless this termination was challenged and dispute resolution is still pending or has not confirmed a full settlement against them;
 - 2.5 Have not fulfilled their fiscal obligations regarding payments of taxes in accordance with the legal provisions of either the country where they are constituted or the Contracting Authority's country;
 - 2.6 Are subject to an exclusion decision of the World Bank and are listed on the website <http://www.worldbank.org/debarr>, unless they provide supporting information together with

¹ Means any Person whether natural or legal, firm, company, corporation, government, state or state agency or any association, or group of two or more of the foregoing (whether or not having separate legal status).

their Statement of Integrity (Form available as Appendix to the Application, Bid or Proposal Submission Form) which shows that this exclusion is not relevant in the context of the Contract;

- 2.7 Have created false documents or committed misrepresentation in documentation requested by the Contracting Authority as part of the procurement process of the Contract.
3. State-owned entities may compete only if they can establish that they (i) are legally and financially autonomous, and (ii) operate under commercial law. To be eligible, a state-owned entity shall establish to AFD's satisfaction, through all relevant documents, including its Charter and other information AFD may request, that it: (i) is a legal entity separate from their state (ii) does not currently receive substantial subsidies or budget support; (iii) operates like any commercial enterprise, and, inter alia, is not obliged to pass on its surplus to their state, can acquire rights and liabilities, borrow funds and be liable for repayment of its debts, and can be declared bankrupt.

Section VI – AFD Policy - Corrupt and Fraudulent Practices – Environmental and Social Responsibility

1. Corrupt and Fraudulent Practices

The Contracting Authority and the suppliers, contractors, subcontractors, consultants or subconsultants must observe the highest standard of ethics during the procurement process and performance of the contract. The Contracting Authority means the Purchaser, the Employer, the Client, as the case may be, for the procurement of goods, works, plants, consulting services or non-consulting services.

By signing the Statement of Integrity the suppliers, contractors, subcontractors, consultants or subconsultants declare that (i) “it did not engage in any practice likely to influence the contract award process to the Contracting Authority’s detriment, and that it did not and will not get involved in any anti-competitive practice”, and that (ii) “the procurement process and the performance of the contract did not and shall not give rise to any act of corruption or fraud”.

Moreover, AFD requires including in the Procurement Documents and AFD-financed contracts a provision requiring that suppliers, contractors, subcontractors, consultants or subconsultants will permit AFD to inspect their accounts and records relating to the procurement process and performance of the AFD-financed contract, and to have them audited by auditors appointed by AFD.

AFD reserves the right to take any action it deems appropriate to check that these ethics rules are observed and reserves, in particular, the rights to:

- a) Reject a proposal for a contract award if it is established that during the selection process the bidder or consultant that is recommended for the award has been convicted of corruption, directly or by means of an agent, or has engaged in fraud or anti-competitive practices in view of being awarded the Contract;
- b) Declare misprocurement when it is established that, at any time, the Contracting Authority, the suppliers, contractors, subcontractors, consultants or subconsultants their representatives have engaged in acts of corruption, fraud or anti-competitive practices during the procurement process or performance of the contract without the Contracting Authority having taken appropriate action in due time satisfactory to AFD to remedy the situation, including by failing to inform AFD at the time they knew of such practices.

AFD defines, for the purposes of this provision, the terms set forth below as follows:

- a) Corruption of a Public Officer means:
 - The act of promising, offering or giving to a Public Officer, directly or indirectly, an undue advantage of any kind for himself or for another Person¹ or entity, for such Public Officer to act or refrain from acting in his official capacity; or
 - The act by which a Public Officer solicits or accepts, directly or indirectly, an undue advantage of any kind for himself or for another Person or entity, for such Public Officer to act or refrain from acting in his official capacity.
- b) A Public Officer shall be construed as meaning:
 - Any person who holds a legislative, executive, administrative or judicial mandate (within the country of the Contracting Authority) regardless of whether that natural Person was nominated or elected, regardless of the permanent or temporary, paid or unpaid nature of the position and regardless of the hierarchical level the natural Person occupies;
 - Any other natural Person who performs a public function, including for a State institution or a State-owned company, or who provides a public service;

¹ Means any Person whether natural or legal, firm, company, corporation, government, state or state agency or any association, or group of two or more of the foregoing (whether or not having separate legal status).

- Any other natural Person defined as a Public Officer by the national laws of the country of the Contracting Authority.
- c) Corruption of a Private Person² means:
- The act of promising, offering or giving to any Private Person, directly or indirectly, an undue advantage of any kind for himself or for another Person or entity, for such Private Person to perform or refrain from performing any act in breach of its legal, contractual or professional obligations; or;
 - The act by which any Private Person solicits or accepts, directly or indirectly, an undue advantage of any kind for himself or for another Person or entity, for such Private Person to perform or refrain from performing any act in breach of its legal, contractual or professional obligations.
- d) Fraud means any dishonest conduct (act or omission), whether or not it constitutes a criminal offence, deliberately intended to deceive others, to intentionally conceal items, to violate or vitiate consent, to circumvent legal or regulatory requirements and/or to violate internal rules in order to obtain illegitimate profit.
- e) Anti-competitive practices mean:
- Any concerted or implied practices which have as their object or effect the prevention, restriction or distortion of competition within a marketplace, especially where they (i) limit access to the marketplace or free exercise of competition by other undertakings, (ii) prevent free, competition-driven price determination by artificially causing price increases or decreases, (iii) restrict or control production, markets, investments or technical progress; or (iv) divide up market shares or sources of supply;
 - Any abuse by one undertaking or a group of undertakings which hold a dominant position on an internal market or on a substantial part of it;
 - Any practice whereby prices are quoted or set unreasonably low, the object of which is to eliminate an undertaking or any of its products from a market or to prevent it from entering the market.

2. Environmental and Social Responsibility

In order to promote sustainable development, AFD seeks to ensure that internationally recognised environmental and social standards are complied with. Suppliers, contractors, subcontractors, consultants or subconsultants for AFD-financed contracts shall consequently undertake in the Statement of Integrity to:

- a) Comply with and ensure that all their subcontractors or subconsultants comply with international environmental and labour standards, consistent with applicable law and regulations in the country of implementation of the contract, including the fundamental conventions of the International Labour Organisation (ILO) and international environmental treaties;
- b) Implement environmental and social risks mitigation measures when specified in the environmental and social management plan (ESMP) provided by the Contracting Authority.

² Means any natural Person other than a Public Officer.

PART 2 - Works Requirements

Section VII – Scope of Works

1. Description of the Works

- i) Construction of the Mwache Trunk Main (Section 1) comprising of Twin DN 1000 Pipelines, each 2.9km in length, made of Steel Pipes or Ductile Iron Pipes
- ii) Construction of South Mainland Transmission Pipeline (total length 27.8km comprising of DN1000 section 21.9km and DN 900 section 5.9km) made of Steel Pipes or Ductile Iron Pipes, including approximately 15m wide sea crossing over Mwache Creek.
- iii) Construction of 2Nr Reinforced Concrete Tanks at Dongo Kundu, capacity 14,000m³ each and Ancillary Works including Chlorination Facilities, Administration Building, etc.
- iv) Supply and Installation of Instrumentation for the above Pipelines and Reservoirs to be included in the Overall SCADA System to be installed by another Contractor (Water Treatment Plant Contractor under a different Contract).

2. Construction Period

- 24 Months (730 Days)

3. Site and other Data

- The Project Sites are located within Kinango and Matuga Sub-Counties of Kwale County in the Coastal Region of Kenya.
- The Twin Trunk Mains will be laid from the Proposed Mwache Water Treatment Plant in Vulugani Village in Kasemani Location, traversing through the Mwache Forest to Mwamdudu area in Bonje.
- The South Mainland Transmission Pipeline will commence from the end of the Twin Trunk Mains, traversing South West through the Mwache Forest to the Mwache Creek. The line will cross the Mwache Creek at approximately 400m upstream of the existing DN500 Marere Pipeline bridge. Upon crossing the Creek, the line is to be laid adjacent to the existing Marere Pipeline then next to the existing Kaya Bombo Pipeline up to the Kaya Bombo Reservoir Site then along the Kaya Bombo – Kiteje road to the proposed Dongo Kundu Reservoir, located within Ng'ombeni location in Matuga Sub-County.

The Pipeline routes are characterised by a rugged terrain within rural areas accessed by dry weather roads.

A Project Layout Plan is given on Page 2-3.

